COURT NO.3

Criminal Miscellaneous application no.209 of 2002

1. V.B,Mittal_____ _Petitioners
2. S.M.Patil

Versus

C.B.I.and another_____ Respondents

Hon'ble Irshad Hussain J.

This is a petition u/s 482 Cr.P.C. for quashing of proceedings of case no.10 of 2002, C.B.I. Vs. V.B.Mittal and others, pending in the court of Special Judge (Anti-corruption), CBI, Dehradun.

The petitioners have been chargesheeted for having committed offences punishable under sections 420/120 B IPC and 13(2) read with section 13(1) (d) of the Prevention of Corruption Act, 1988 alongwith other officers of B.H.E.L, Haridwar as well as another accused who had placed order for supply of 730 KW and 500 KW D.C. Motors at the costs of Rs.30.50 lacs. 25 % of the costs was required to be paid in advance and remaining 75% was to be paid before dispatch of the consignment. The petitioners, however, did not assure the required payment to be paid by the purchaser before dispatch of the motors for ulterior benefit by fraudulently cheating the company, therby causing loss to the tune of RS.32 lacs to the B.H.E.L and corresponding gain to the purchaser.

I have heard Sri Alok Singh, learned counsel for the petitioners and Sri U.K.Uniyal, learned counsel for the C.B.I.

From the perusal of the FIR annexure 15, it is evident that it discloses a cognizable offence having been committed by the petitioners and it is of significant that after investigation chargesheet has been submitted and cognizance had been taken by the Special Judge (Anti-corruption-CBI), Dehradun per order dated 28.6.2002. There is no material at this stage on record, which may prima facie indicate that the petitioners have had no concern with the order placed by the purchaser for supply of D.C. motors. As the officers of the BHEL, the petitioners were duly obliged to perform their duties so

that the company was not put to loss by non-receipt of the price of the motors supplied to the purchaser. There are allegations that they did not perform their job out of dishonest intention to fraudulently cause loss to the company and to provide gain to the purchaser, Considering these aspects, it is obvious that it is not one of such cases as may require interference by the court and to quash the chargesheet submitted against the petitioners after investigation. In the case of State of Haryana and others Vs. Bhajan Lal and others, 1992 Cri.L.J. 527, the Apex Court has held that the power of quashing of criminal proceedings should be exercised sparingly and with the circumspection and that too in the rarest of rare cases. The present case is not rarest of rare cases. Considering this no interference is warranted by this court in the criminal proceedings and the petition is liable to be dismissed. The petition is dismissed.

However, the petitioners may have opportunity to place their submissions before the trial court at the time of framing of charges and it is expected that the contentions to be raised on the basis of documents of the prosecution and other material on record will be considered on merit at that time by the trial court.

(Irshad Hussain, J.)

2.11.2002
MPS